

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

2022 AUG 19 PM 12:05

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TROY WILLIAMS,  
*Plaintiff,*

v.

UNITED STATES OF AMERICA,  
*Defendant.*

CIVIL ACTION No. 2:22-cv-158

**COMPLAINT**

Plaintiff, Troy Williams, by and through his attorneys, Shillen Mackall & Seldon Law Office, P.C., complains and alleges against Defendant, United States of America, as follows:

**The Parties**

1. Plaintiff, Troy Williams, is a resident of the State of Vermont who sustained injuries caused by the negligent act(s) and/or omission(s) of an employee or employees of the United States Postal Service (USPS) acting within the scope of his or her or their employment.
2. Defendant, United States of America, is liable to Plaintiff for personal injuries caused to Plaintiff by the negligent and/or wrongful act(s) and/or omission(s) of an employee or employees of USPS acting within the scope of his or her or their employment.

**Jurisdiction and Venue**

3. The Federal Tort Claims Act, 28 U.S.C. § 1346, *et seq.* authorizes recovery for personal injury caused by the negligence of a federal government employee acting within the scope of his or her or their employment.

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4. On or about January 10, 2019, Plaintiff sustained personal injuries caused by the negligence of an employee or employees of USPS at the White River Junction Processing and Distribution Center (WRJ Center) located at 195 Sykes Mountain Ave, White River Junction, Vermont 05001.
5. On or about July 13, 2020, within two years of accrual, Plaintiff presented to USPS, the appropriate government agency, a claim under the Federal Tort Claims Act for the personal injuries he suffered from the act(s) and/or omission(s) of an employee or employees of USPS on or about January 10, 2019.
6. On March 2, 2022, USPS mailed to Plaintiff a final denial of Plaintiff's administrative claim and informed Plaintiff of his right to file suit in a United States District Court no later six (6) months from the date of mailing. This suit is filed within six (6) months from the date of mailing of the determination of USPS.
7. Because the acts and omissions complained of took place in Vermont, Plaintiff is a resident of Vermont, and this case is brought pursuant to the Federal Tort Claims Act, this suit is filed in the appropriate federal district court. 28 U.S.C. §§1391, 1402(b).

### **The Facts**

8. On January 10, 2019, Troy Williams was injured while he assisted personnel of USPS with loading mail onto an RSD Transportation, Inc. trailer at the WRJ Center.

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9. USPS owns, operates, and maintains the WRJ Center, which includes a loading dock elevated several feet above ground level for loading and unloading mail to and from trailers backed up to the loading dock.
10. At all times material hereto and upon information and belief, RSD Transportation, Inc. was under contract with USPS for provision of mail transportation services between the WRJ Center and other post office facilities and destinations.
11. At all times material hereto, Mr. Williams was employed as a driver by RSD Transportation, Inc., and his work duties required him to transport mail to and from the WRJ Center.
12. At the WRJ Center, Mr. Williams was required to assist USPS personnel with loading mail onto an RSD Transportation, Inc. trailer from the WRJ Center loading dock, tie or strap mail containers in the trailer where necessary, and sign for certified mail.
13. To assist with loading and unloading trailers, the WRJ Center uses dockboards or dock levelers that bridge the gap between the loading dock and the trailer of a transport vehicle allowing for a continuous walking surface between the loading dock and trailer.
14. At all times material hereto, the dock levelers used at the WRJ Center were operated by a push button controller that, when pushed, lifted the lip of the dock leveler from the stored position and extended the lip over the gap between the loading dock and trailer.

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15. When not in use, the dock levelers were stored, also by operation of the push button controller, in an upright or vertical position on the edge of the loading dock and, in the stored position, several inches of the lip of the dock leveler extended above the adjacent loading dock walking surface.
16. The dock levelers used at the WRJ Center are controlled and operated by USPS personnel.
17. On January 10, 2019, Mr. Williams was assisting with loading mail onto an RSD Transportation, Inc. trailer at the WRJ Center when an employee of the USPS instructed or requested Mr. Williams to sign for certified mail on the loading dock. Upon information and belief, the employee of the USPS is named, "Tammie Hammond."
18. At the time the USPS employee instructed or requested Mr. Williams to sign for certified mail on the loading dock, Mr. Williams had not completed his tasks to ensure the trailer was loaded, and the mail was not yet tied or strapped in the trailer.
19. Mr. Williams complied with the USPS employee's instruction or request by exiting the trailer, traversing the bridge created by the dock leveler, and entering the loading dock where the USPS employee was standing.
20. A second USPS employee pushed the button to return the dock leveler to the stored position while Mr. Williams was facing away from the trailer and signing for certified mail, and the dock leveler was returned to the stored position. Upon information and belief, the second USPS employee is named, "Tim Martin."

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21. Mr. Williams was unaware that the dock leveler was returned to the stored position and, after signing for certified mail, Mr. Williams turned around to enter the trailer and finish tying or strapping the loaded mail in the trailer.
22. As Mr. Williams entered the trailer, he tripped over the lip of the dock leveler extending above the adjacent loading dock surface, fell forward into the open trailer, and landed on his extended upper extremities.
23. The force of falling into the trailer caused Mr. Williams to suffer immediate pain and sustain significant and traumatic injuries to his bilateral upper extremities, back, and hips.
24. Mr. Williams's resulting injuries caused him to endure pain and suffering, undergo and incur the cost of extensive medical treatment and hospitalization, and sustain disfigurement from surgical scars.
25. Additionally, Mr. Williams's resulting injuries caused him to experience disability, lose wages and benefits, lose enjoyment of life, and lose earning capacity.
26. The losses and injuries experienced by Mr. Williams were the direct result of the actions and inactions of USPS personnel and are either permanent or continuing.

#### **The Law**

27. Under the Federal Tort Claims Act, the United States has waived its sovereign immunity for injuries caused by the "negligent or wrongful act or omission" of a federal government employee while that employee is "acting within the scope of his office or employment." 28 U.S.C. § 1346(b).

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28. Under the Federal Tort Claims Act, liability is determined by the law of the state where the act or omission occurred, and the liability of the United States is “in the same manner and to the same extent as a private individual under like circumstances.” 28 U.S.C. §§ 1346(b), 2674; *Richards v. United States*, 369 U.S. 1 (1962).
29. To support a case alleging negligence under Vermont law, a plaintiff must show that the defendant owed the plaintiff a duty that was breached, which proximately caused injury to the plaintiff. *Endres v. Endres*, 185 Vt. 63, 68 (2017).
30. In Vermont, an owner or possessor of land has a duty to use reasonable diligence to maintain his or her property in a reasonably safe and suitable condition. *Wakefield v. Tygate Motel Corp.*, 161 Vt. 395, 397–98 (1994); *McComack v. State*, 150 Vt. 443, 445 (1988). Further, the duty of a landowner or business owner “is to use reasonable care for the safety of all...persons invited upon the premises.” *Demag v. Better Power Equip., Inc.*, 197 Vt. 176, 187 (2014).
31. In Vermont, an owner or possessor of land owes persons lawfully on its premises a duty of care to operate its machinery in a reasonably safe manner.
32. Additionally, USPS is subject to Public Law Number 91–596, the Occupational Safety and Health (OSH) Act of 1970, pursuant to the Postal Employees Safety Enhancement Act (PESEA) of 1998. The Occupational Safety and Health Administration (OSHA) is responsible for promulgating

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standards and regulations under the OSH Act, and promulgated rules governing the use of dockboards, walking-working surfaces, and fall hazards.

**CLAIM ONE: NEGLIGENCE**

33. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 32 above as though fully set forth herein.
34. At all times material hereto, USPS personnel, including Mr. Martin and Ms. Hammond, were acting in the course and scope of their employment.
35. At all times material hereto, USPS personnel, including Mr. Martin and Ms. Hammond, owed a duty to Mr. Williams to maintain the loading dock in a reasonably safe and suitable condition.
36. At all times material hereto, USPS personnel, including Mr. Martin and Ms. Hammond, breached the duty owed to Mr. Williams by, among other acts and omissions:
- a. Failing to take reasonable inspections to ensure the loading dock was in a reasonably safe condition;
  - b. Creating an unreasonably dangerous condition on the loading dock;
  - c. Failing to warn Mr. Williams of the unreasonably dangerous condition on the loading dock;
  - d. Failing to have in place and erect proper barricades or other fall protection systems;
  - e. Failing to adhere to the principles, agreements, and express and implied warranties set forth in the contract between USPS and RSD Transportation, Inc.; and otherwise

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f. Failing to exercise reasonable care and caution in the operation of its equipment.

37. Defendant's breach of duty directly and proximately caused Mr. Williams to sustain injuries and/or damages.

**CLAIM TWO: FAILURE TO TRAIN**

38. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 32 above as though fully set forth herein.
39. Defendant, the United States of America, by and through USPS, owed a duty to all persons legally on the premises of the WRJ Center, to train each employee who uses a dockboard or dock leveler, including Mr. Martin, to properly use, place, and secure its dockboards or dock levelers.
40. At all times material hereto and upon information and belief, Defendant breached its duty by failing to train its personnel, including Mr. Martin, in the proper use, placement, and securing of its dockboards or dock levelers.
41. At all times material hereto and upon information and belief, Defendant's failure to properly train its personnel, including Mr. Martin, in the use, placement, and/or securing of dockboards and/or dock levelers caused the dockboard or dock leveler to be improperly used, placed, and/or secured.
42. At all times material hereto and upon information and belief, the improper use, placement, and/or securing of the dockboard or dock leveler directly and proximately caused Mr. Williams to sustain injuries and/or damages.

**WHEREFORE**, Plaintiff, Troy Williams, demands judgment in his favor together for full, fair, and just compensation, costs, interest and such other relief as is

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just and appropriate but in no event more than the amount claimed in his  
administrative tort claim.

Dated: August 18, 2022

TROY WILLIAMS, Plaintiff

By:

  
Jack T. Spicer, Esq.

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